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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,848

09/13/2006

Franz Lindlbauer

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06/25/2008

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EXAMINER

PERREAULT, ANDREW D

ART UNIT

PAPER NUMBER

4177

MAIL DATE

DELIVERY MODE

06/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,848	Applicant(s) LINDLBAUER, FRANZ	
	Examiner ANDREW PERREAULT	Art Unit 4177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/2/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is responsive to the preliminary amendment filed on September 13, 2006. As directed by the amendment: claims 1-8 have been cancelled, and new claims 9-19 have been added. Thus, claims 9-19 are presently pending in this application.

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

It appears that there is a duplication of claim number 9 (original claim 9 and newly added claim 9). Misnumbered claim 9 has been renumbered 10. Accordingly, Claims 9-19 are renumbered to be 10-20. Applicant is reminded to correct claim numbers and claim dependency accordingly.

Claim 9 (original) is objected to because the original claim 9 depends on rejected claim 8. It appears that the applicant intended to cancel original claim 9, as initial claim 9 is nearly identical to new claim 19. Therefore, original claim 9 has not been examined. Applicant is reminded to correct this issue.

2. Claim 20 is objected to because of the following informalities: Claim 20 depends on itself. For the purposes of examination, it appears that claim 20 should depend on claim 19. Appropriate correction by the applicant is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10, 14-16, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claim 10, the phrase "sack-like" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "like"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d). Furthermore, claim 10 recites the limitation "the inner layer of the outer wall." There is insufficient antecedent basis for this limitation in the claim. Moreover, claim 10 recites the limitation "two layers, " which is not clear whether the two layers refers to the inner wall, outer wall, or the inner layer of the outer wall.

6. Claims 14-16 recites the limitation "the interruption." There is insufficient antecedent basis for this limitation in these claims.

7. Claim 19 recites the limitation "the improvement." There is insufficient antecedent basis for this limitation in this claim.

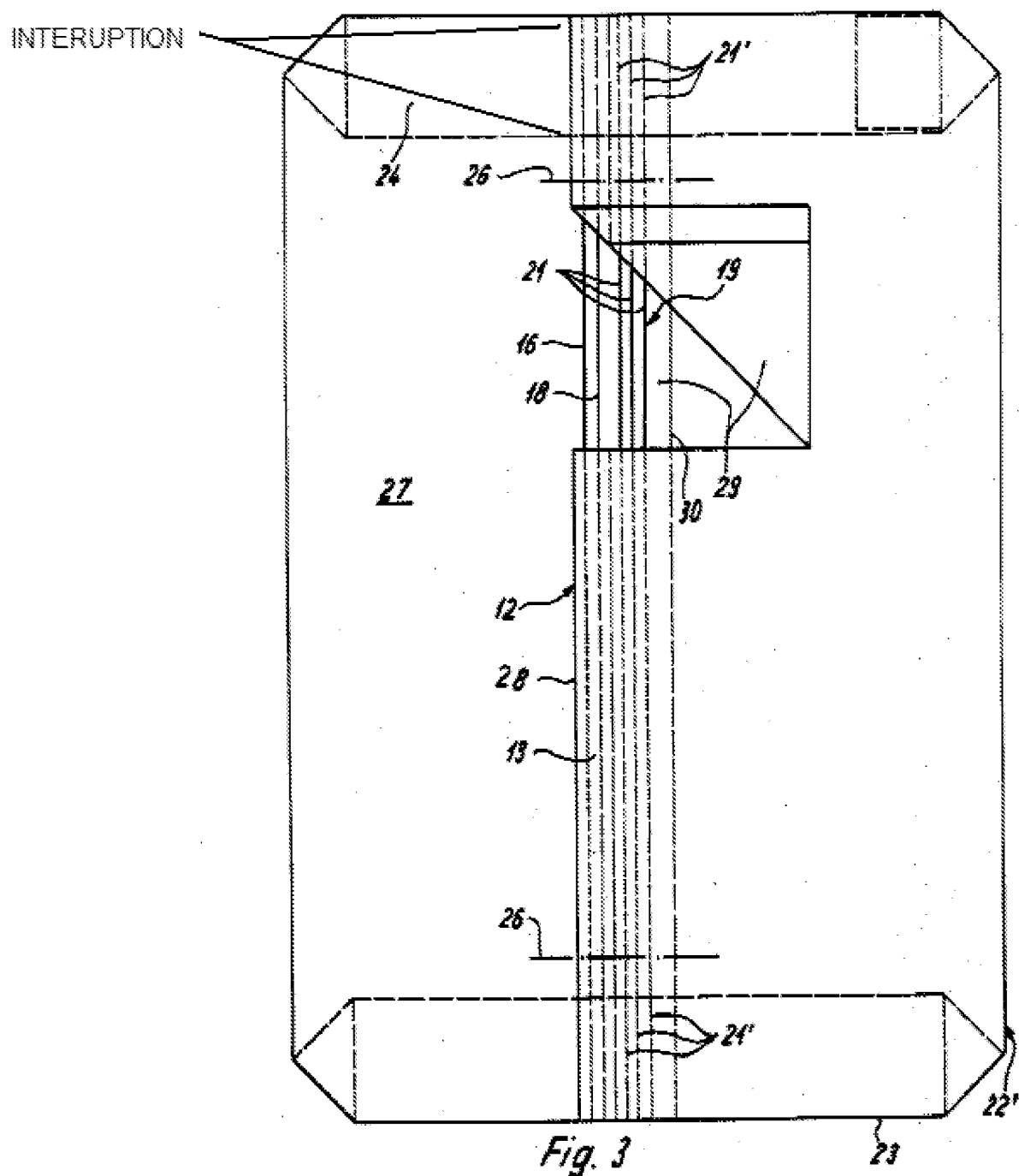
Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Combrink (5493844) in view of Scoville, Jr. (4596696).

10. As to claim 10 and 18, as best understood, Combrink discloses a multilayer, sack packaging medium 22' (fig. 3), comprising a front side and a rear side joined (as seen in fig. 3) by first and second side areas (sack 22' inherently has a front, rear, and two sides; fig. 3), and closed at an upper end 24 and a lower end 23 (fig. 3), an opening 25 (fig. 2, 3) for filling, being free at the upper end 24, the packaging medium 22' having an inner wall 14 (col. 7, lines 1-19; fig. 2, 3) surrounded by an outer wall 15 (col. 7, lines 1-19; fig. 2, 3), comprising a plastic film ("thermoplastic sheet," col. 7, lines 9-13); wherein on the front side, the outer wall 15 overlaps a subregion 13 of up to 50% of the total area of the front side (fig. 3); at edges of the overlap region 13, the two walls 14, 15 lying one above the other are joined to each other by means of seams, forming a joint 12 (col. 5, line 37-40; fig. 2, 3); at one edge, the joint 12 is interrupted over a continuous region which covers 10 to 50% of the total length of the joint 12 (see fig. 3 below); 10 to 50% of the area of the overlap region 13 is provided with perforations 20 (col. 7, lines 1-9; col. 5, lines 57-65; fig. 2, 3); but does not disclose that a distance of 0.5 to 10 cm from the edges of the overlap region 13 is maintained, the inner and outer wall material, and that the inner layer of the outer wall is perforated. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the distance such that the distance of 0.5 to 10 cm from the edges of the overlap region 13 is maintained, since it has been held that discovering an optimum value of a result



effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Moreover, Scoville, Jr. teaches a similar packaging medium ("test pack, col. 8 lines 34-56) comprising a front side and a rear side joined by first and

second side areas, and closed at an upper end and a lower end (fig. 1-3) having an inner wall made of air-permeable material surrounded by an outer wall of air-impermeable material ("an outer container in the form of a box having a definite stable shape and being formed of a relatively steam and air permeable material coated with a form-stabilizing layer of a relatively steam and air impermeable material," col. 8, lines 35-39); the inner layer of the outer wall 15 is perforated 17-21 (col. 4, lines 32-25; fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in the Combrink reference, to include the inner and outer wall material, and that the inner layer of the outer wall is perforated, as suggested and taught by Scoville, Jr., for the purpose of controlling air egress/ingress (col. 7, lines 42-60), thereby enhancing stability of the shape of the package.

11. As to claim 11, Combrink discloses that the outer wall 15 overlaps only on the rear side (fig. 3).

12. As to claim 12-13, Combrink discloses the outer wall 15 overlaps (with overlap region 13) over its entire length (fig. 3).

13. As to claims 14-16, as best understood, Combrink discloses that the interruption is in the upper half of the packaging medium 22' (see fig. 3 above).

14. As to claim 17, Combrink discloses that the inner wall 14 comprises nonwoven materials made of synthetic fibres and natural fibres ("non-woven fabric," col. 6, lines 1-2).

15. As to claims 19-20, as best understood, Combrink discloses the transport and storage of particulate materials in a storage medium 22' (col. 5, line 30 – col. 7, line 30); wherein said particulate material includes flour ("powdery material," col. 2, lines 24-28).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tsuyuguchi (6530471), Hunt (4264007), Lucas et al. (2005/0053313), Zimmerman et al. (2006/0110079), Watanabe et al. (6821594), Archibald et al. (6132780), Schoch et al. (5987850), Bayer (5460269), and Barnes et al. (4672684) disclose a multi-walled, sack-type packaging.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW PERREAULT whose telephone number is (571)270-5427. The examiner can normally be reached on Monday - Friday, 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quang D. Thanh can be reached on (571)272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P./
Examiner, Art Unit 4177

/Quang D. Thanh/
Supervisory Patent Examiner,
Art Unit 4177